

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JASON SCOTT HOUNIHAN,  
  
Plaintiff,  
  
v.  
  
JOSE C. VILLASENOR,  
  
Defendant.

Case No. 1:23-cv-00163-ADA-EPG (PC)  
  
ORDER DENYING PLAINTIFF’S MOTION  
FOR SANCTIONS WITHOUT PREJUDICE  
  
(ECF No. 47)

Plaintiff Jason Scott Hounihan is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff’s Eighth Amendment sexual assault claim against Defendant Villasenor. (ECF No. 5).

In a motion dated October 29, 2029, Plaintiff states that he sent his first set of interrogatories to Defendant on September 10, 2023, and the 45-day deadline to respond has expired. (ECF No. 47). He requests an unspecified sanction.

The Court will deny the motion without prejudice.

As an initial matter, Plaintiff is correct that “[r]esponses to written discovery requests shall be due forty-five (45) days after the request is first served.” (ECF No. 34, p. 3). However, it is not clear from Plaintiff’s motion when the responses were served and if any delay is due to mail processing. *See* Fed. R. Civ. P. 5(b)(2)(C) (noting that service by mail is “complete upon mailing”).

1 Moreover, to the extent that Plaintiff seeks to compel discovery responses, his motion fails  
2 to comply with the requirements of the scheduling order: “[A motion to compel] should include a  
3 copy of the request(s) and any response to the request(s) at issue.” (ECF No. 34, p. 5).

4 Further, the Court directs Plaintiff to Federal Rule of Civil Procedure 37, which generally  
5 governs motions to compel and sanctions. Should Plaintiff file a future motion to compel or  
6 sanctions, he should provide developed argument as to what specific information he seeks to  
7 compel or what sanctions he seeks and why they are appropriate. *See* Fed. R. Civ. P. 7(b)(1)(B)  
8 (noting that a motion must “state with particularity the grounds for seeking [an] order”).

9 Accordingly, IT IS ORDERED that Plaintiff’s motion for sanctions (ECF No. 47) is  
10 denied without prejudice.

11 If Plaintiff still has not received responses to his discovery requests, he may refile a  
12 motion for sanctions, which should include the additional requirements set forth in this order.

13 IT IS SO ORDERED.

14 Dated: November 3, 2023

15 /s/ Eric P. Gray  
16 UNITED STATES MAGISTRATE JUDGE  
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